



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



264464

REPLY TO THE ATTENTION OF

January 22, 2003

BY FAX AND REGULAR MAIL

Ms. Carol M. Douglas
Ungaretti & Harris
3500 First National Plaza
Chicago, Illinois 60602-4283

Re: Ellsworth Industrial Park Site/Tricon Industries, Inc.

Dear Ms. Douglas:

Thank you for your letter dated January 16, 2003. Your demand that the United States Environmental Protection Agency (U.S. EPA) provide a carve-out settlement to Tricon Industries, Inc. (Tricon) appears to be based on a misunderstanding of U.S. EPA's activities and positions.

First, while U.S. EPA has had discussions with the Downers Grove Sanitary District and Suburban Self Storage (Suburban), U.S. EPA is not presently negotiating or entertaining separate carve-out settlements with these parties. As you correctly state, U.S. EPA believes such settlements at this early stage of the Superfund process are premature and could undermine the group effort to address contamination at and around the Site.

Second, U.S. EPA has not eliminated Suburban as a PRP; U.S. EPA continues to believe Suburban is a current owner of a portion of the Site. U.S. EPA must, however, recognize that Suburban presents unique litigation risks because of the fact that it has never used chlorinated solvents and only purchased the property in 1998. U.S. EPA still wants Suburban and all recipients of its special notice letter to participate in the Superfund process. Its discussions with Suburban and its acknowledgment of Suburban's rationale for not participating does not mean that U.S. EPA is presently "willing to settle with innocent owners notwithstanding their liability under CERCLA." Further information must be developed before such settlements with any party could be justified.

Accordingly, U.S. EPA is not currently in a position to pursue a partial carve-out settlement with Tricon or any other PRPs at the Site, especially during the limited time available in the special notice period.

Please feel free to contact me at (312) 886-0562 if you have any further questions concerning this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Thomas J. Krueger', written in a cursive style.

Thomas J. Krueger
Associate Regional Counsel

bcc: Mazin Enwiya